

IN THE BOARD OF SUPERVISORS
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

_____ day _____, 20__

PRESENT: Supervisors

ABSENT:

RESOLUTION NO. _____

RESOLUTION DENYING THE APPEAL OF JANNECK LIMITED AND RRM DESIGN GROUP, AFFIRMING THE DECISION OF THE PLANNING COMMISSION, AND DENYING THE APPLICATION OF JANNECK LIMITED FOR VESTING TENTATIVE TRACT MAP AND CONDITIONAL USE PERMIT SUB2003-00001

The following resolution is now offered and read:

WHEREAS, on February 11, 2016, the Planning Commission of the County of San Luis Obispo (hereinafter referred to as the “Commission”) duly considered and denied the application of Janneck Limited for Vesting Tentative Tract Map and Conditional Use Permit SUB2003-00001 to allow an agricultural cluster subdivision of twenty-one parcels (totaling 1,910 acres) into one hundred and two (102) residential lots and four (4) open space lots; and

WHEREAS, Janneck Limited and RRM Design Group have appealed the Commission’s decision to the Board of Supervisors of the County of San Luis Obispo (hereinafter referred to as the “Board of Supervisors”) pursuant to the applicable provisions of Title 22 of the San Luis Obispo County Code; and

WHEREAS, a public hearing was duly noticed and conducted by the Board of Supervisors on July 26, 2016, and the matter was continued to August 23, 2016, and a determination and decision was made on August 23, 2016; and

WHEREAS, at said hearing, the Board of Supervisors heard and received all oral and written protests, objections, and evidence, which were made, presented, or filed, and all persons present were given the opportunity to hear and be heard in respect to any matter relating to said appeal; and

Attachment 1

WHEREAS, the Board of Supervisors has duly considered the appeal and finds that the appeal should be denied and the decision of the Commission should be affirmed, and that the application (SUB2003-00001) should be denied for the reasons described in the findings set forth below.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the Board of Supervisors of the County of San Luis Obispo, State of California, as follows:

1. That the recitals set forth hereinabove are true, correct and valid.
2. That this project is found to be statutorily exempt from the California Environmental Quality Act under the provisions of Public Resources Code section 21080(b)(5), which provides that CEQA does not apply to projects which a public agency rejects or disapproves.
3. That the Board of Supervisors makes all of the findings of fact and determinations set forth in Exhibit A attached hereto and incorporated by reference herein as though set forth in full.
4. That the appeal filed by Janneck Limited and RRM Design Group is denied, that the decision of the Commission is affirmed, and that the application for Vesting Tentative Tract Map and Conditional Use Permit SUB2003-00001 is hereby denied for the reasons described in the findings set forth below.

Upon motion of Supervisor _____, seconded by Supervisor _____, and on the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAINING:

the foregoing resolution is hereby adopted.

Chairperson of the Board of Supervisors

Attachment 1

ATTEST:

Clerk of the Board of Supervisors

[SEAL]

APPROVED AS TO FORM AND LEGAL EFFECT:

RITA L. NEAL
County Counsel


By: Assistant County Counsel

Dated: August 9, 2016

STATE OF CALIFORNIA,)
) ss
County of San Luis Obispo)

I, _____, County Clerk and ex-officio Clerk of the Board of Supervisors, in and for the County of San Luis Obispo, State of California, do hereby certify the foregoing to be a full, true and correct copy of an order made by the Board of Supervisors, as the same appears spread upon their minute book.

WITNESS my hand and the seal of said Board of Supervisors, affixed this _____ day of _____, 2016.

County Clerk and Ex-Officio Clerk of the
Board of Supervisors

(SEAL)

By: _____
Deputy Clerk

FINDINGS - EXHIBIT A

(Laetitia Agricultural Cluster – SUB2003-00001 / DRC2003-00001)

Tentative Map

The Planning Commission cannot tentatively or conditionally approve the tentative tract map because provisions of the County General Plan, Title 22 and Title 21 are not satisfied as follows:

- A. Due to uncertainty regarding the fractured bedrock water source, particularly during long-term drought conditions, the proposed map is not consistent with the following policies and regulations:

Agriculture and Open Space Element Policy 11: Agricultural Water Supplies. A. Maintain water resources for production agriculture, both in quality and quantity, so as to prevent the loss of agriculture due to competition for water with urban and suburban development.

Title 22 (County Land Use Ordinance) Agricultural Cluster Subdivision Finding 22.22.150g(1): “The project will result in the continuation, enhancement, and long-term preservation of agricultural operations consisting of the production of food and fiber on the subject site and in the surrounding area.”

Title 22 (County Land Use Ordinance) Agricultural Cluster Subdivision Finding 22.22.150g(4): The water resources and all necessary services are adequate to serve the proposed development, including residential uses as well as existing and proposed agricultural operations on the subject site and in the site vicinity.

The Original Project and the Applicant Proposed Alternative 2 are not consistent with these policies as both proposals compete with agricultural operations for limited groundwater supplies. While water conservation measures are proposed by the applicant and recommended as mitigation measures in the EIR to reduce the anticipated demand for domestic water supply, there is insufficient certainty that water will be available to support long-term agricultural production on the site. The applicant's proposal to implement additional measures during prolonged drought conditions that would limiting irrigation of agricultural crops supports this concern.

The proposed residential project would be competing with agricultural operation on and off site for a limited water supply. Such competition could preclude continuation, enhancement, and long-term preservation of both on and off site agricultural operations and may restrict the ability of agricultural operations to meet market demands by changing to more water intensive crops.

- B. The establishment and subsequent operation or conduct of the use will be detrimental, because of the circumstances and conditions in this particular case, to the health, safety and welfare of the general public and persons residing and working in the neighborhood of the use, and detrimental and injurious to property, because:

- a. The Original Project and the Applicant Proposed Alternative 2, do not meet the requirements of Public Resource Code 4290 (California Fire Code) because they do not provide unimpeded secondary access for the subdivision.
- b. If unimpeded secondary access were allowed at Laetitia Vineyard Drive, for travel directly onto Highway 101 at the existing at-grade driveway, or the proposed guard gate did not operate as intended in perpetuity, the project would contribute additional vehicle trips to an intersection with an accident history greater than the statewide average (0.86 vs 0.76) thus creating an increased safety risk. According to the California Department of Transportation, which owns and maintains Highway 101 and is responsible for ensuring its safe operation, use of Laetitia Vineyard Drive for unimpeded secondary access is not allowed.
- c. Necessary improvements to Highway 101 or alternative secondary access (i.e. frontage road) have not been proposed by the applicant and, as stated by the applicant, are infeasible because they are dependent on the applicant obtaining easements from adjacent owners, would result in significant and unavoidable adverse impacts, and would require the applicant to construct improvements on property which it does not own.
- d. The project will create the following significant and unavoidable impacts related to transportation and access:

Impact	Original Proposed Project	Applicant Proposed Alternative 2
HM Impact 2 The proposed project is inconsistent with CAL FIRE requirements for maximum road lengths.	X	X
TR Impact 10 The proposed control of the emergency vehicle access at Laetitia Vineyard Drive does not guarantee emergency-only access, because the gate could physically be opened for non-emergency use, resulting in a significant project-specific impact.	X	X
TR Impact 13 The proposed control of the emergency vehicle access at Laetitia Vineyard Drive does not guarantee emergency-only access, because residents could open and close the gate could physically be opened for non-emergency use, significantly contributing to the cumulative degradation of this intersection.	X	X

Housing Accountability Act

- C. Government Code section 65589.5 does not apply to the project because the project does not comply with state law or with applicable, objective General Plan and Zoning standards, including requirements for providing adequate secondary access. In addition, the project would have a specific, adverse impact upon the public health or safety as described in the findings above and in the Final EIR prepared for this project. The development is proposed using a dead-end road without proper secondary access meeting state law, County Fire, or California Department of Transportation requirements. There are no feasible methods of satisfactorily mitigating or avoiding these adverse impacts other than the disapproval of the project.

Conditional Use Permit

The proposed Conditional Use Permit is not consistent with the San Luis Obispo County General Plan, Title 22, and Title 21 because it is inconsistent with the following policies:

- D. Due to uncertainty regarding the fractured bedrock water source, particularly during long-term drought conditions, the proposed map is not consistent with the following policies and regulations:

Agriculture and Open Space Element Policy 11: Agricultural Water Supplies. A. Maintain water resources for production agriculture, both in quality and quantity, so as to prevent the loss of agriculture due to competition for water with urban and suburban development.

Title 22 (County Land Use Ordinance) Agricultural Cluster Subdivision Finding 22.22.150g(1): “The project will result in the continuation, enhancement, and long-term preservation of agricultural operations consisting of the production of food and fiber on the subject site and in the surrounding area.”

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The Original Project and the Applicant Proposed Alternative 2 are not consistent with these policies as both proposals compete with agricultural operations for limited groundwater supplies. While water conservation measures are proposed by the applicant, and recommended as mitigation measures in the EIR to reduce the anticipated demand for domestic water supply, there is insufficient certainty that water will be available to support long-term agricultural production on the site. The applicant's proposal to implement additional measures during prolonged drought conditions that would limiting irrigation of agricultural supports this concern.

The proposed residential project would be competing with agricultural operation on and off site for a limited water supply. Such competition could preclude continuation, enhancement, and long-term preservation of both on and off site agricultural operations and may restrict the ability of agricultural operations to meet market demands by changing to more water intensive crops.

- E. The establishment and subsequent operation or conduct of the use will be, because of the circumstances and conditions in this particular case, detrimental to the health, safety and welfare of the general public and persons residing and working in the neighborhood of the use, and detrimental and injurious to property, because:
- a. The Original Project and the Applicant Proposed Alternative 2, do not meet the requirements of Public Resource Code 4290 (California Fire Code) because they do not provide unimpeded secondary access for the subdivision.
 - b. If unimpeded secondary access were allowed at Laetitia Vineyard Drive, for travel directly onto Highway 101 at the existing at-grade driveway, or the proposed guard gate did not operate as intended in perpetuity, the project would contribute additional vehicle trips to an intersection with an accident history greater than the statewide average thus creating an increased safety risk. According to the California Department of Transportation, which owns and maintains Highway 101 and is responsible for ensuring its safe operation, use of Laetitia Vineyard Drive for unimpeded secondary access is not allowed.
 - c. Necessary improvements to Highway 101 or alternative secondary access (i.e. frontage road) have not been proposed by the applicant and, as stated by the applicant, are infeasible because they are dependent on the applicant obtaining

easements from adjacent owners, would result in significant and unavoidable adverse impacts, and would require the applicant to construct improvements on property which it does not own.

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Environmental Determination

- F. This decision is found to be statutorily exempt from the California Environmental Quality Act under the provisions of Public Resources Code section 21080(b)(5), which provides that CEQA does not apply to projects which a public agency rejects or disapproves.